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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/628,631

07/28/2003

Fred Monroe

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MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO, IL 60606

EXAMINER

AKINTOLA, OLABODE

ART UNIT

PAPER NUMBER

3691

NOTIFICATION DATE

DELIVERY MODE

09/16/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@mbhb.com
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Office Action Summary	Application No. 10/628,631	Applicant(s) MONROE ET AL.	
	Examiner OLABODE AKINTOLA	Art Unit 3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-9,11 and 22-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-9,11 and 22-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/1/09</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 5-6, 11, 22, 26-27 and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Adatia (USPAP 20020156716) (hereinafter referred to as Adatia).

Re claims 1, 22 and 30: Adatia teaches the method comprising:

receiving from a trader a first order message having an order to buy or sell a quantity of a first tradeable object at a first price and a market event request, the first order message received at a first electronic exchange having a first computerized matching process configured to match orders for the first tradeable object (fig. 2, ¶ 0005, 0007, 0016, 0023-0025, 0029, 0032-0036, “*brokerage’s internal systems*”) market event request including a condition and an associated predetermined action to be taken on behalf of the trader, the action including sending an order to buy or sell a second tradeable object to a second electronic exchange having a second computerized matching process configured to match orders for the second tradeable object (fig. 2, ¶ 0005, 0007, 0016, 0023-0025, 0029, 0032-0036, “*Send To Exchange*”); detecting the condition at the first electronic exchange (¶ 0023-0025, 0029, 0032-0036);

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in response to detecting the condition, sending a second order to buy or sell the second tradeable object on behalf of the trader from the first electronic exchange to the second electronic exchange, wherein the second tradeable object is different from the first tradeable object, wherein tradeable objects matched at the first exchange are different than tradeable objects matched at the second exchange and the action of sending the order is taken on behalf of the trader by the first electronic market itself exchange using a microprocessor executing one or more instructions (fig. 2, ¶ 0005, 0007, 0016, 0023-0025, 0029, 0032-0036, claims 1, 5, 7, 8).

Re claim 2: Adatia teaches wherein sending is performed in response to determining that the condition is satisfied (fig. 2, ¶ 0005, 0007, 0016, 0023-0025, 0029, 0032-0036, claims 1, 5, 7, 8).

Re claim 5: Adatia teaches receiving a market event request message at the first electronic exchange that establishes a condition (fig. 2, ¶ 0005, 0007, 0016, 0023-0025, 0029, 0032-0036, claims 1, 5, 7, 8).

Re claim 6: Adatia teaches wherein the condition is in the form of a lookup table (fig. 2, ¶ 0005, 0007, 0016, 0023-0025, 0029, 0032-0036, claims 1, 5, 7, 8).

Re claims 11: Adatia teaches wherein the first electronic exchange comprises software running at a point of access that is outside of the electronic exchange (fig. 2, ¶ 0005, 0007, 0016, 0023-0025, 0029, 0032-0036, claims 1, 5, 7, 8).

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Re claims 26-27: Adatia teaches wherein the condition is based on news events or market events external to the first electronic exchange (fig. 2, ¶ 0005, 0007, 0016, 0023-0025, 0029, 0032-0036, claims 1, 5, 7, 8).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 4, 7-8 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adatia in view of Ankireddipally et al (USPAP 20020116205) .

Re claims 4, 7-8 and 23-25: Adatia does not explicitly teach wherein the condition comprises at least a portion of the first order being filled; sending a message from the first electronic exchange to the second electronic exchange instructing the second electronic exchange to modify the order sent on behalf of the trader, wherein the action of sending the message is taken on behalf of the

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trader by the first electronic exchange itself, wherein the modify message is sent on behalf of a trader when a condition has been satisfied.

Ankireddipally teaches the step wherein a condition comprises at least a portion of the first order being filled (section 0089); sending a message from the first electronic exchange to the second electronic exchange instructing the second electronic exchange to modify the order sent on behalf of the trader, wherein the action of sending the message is taken on behalf of the trader by the first electronic exchange itself, wherein the modify message is sent on behalf of a trader when a condition has been satisfied (section 0087).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Adatia to include these feature or concepts as taught by Ankireddipally for the obvious reason of partially executing the trade in both first and second exchanges, thereby enhancing the flexibility of the system.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adatia in view of Hauk et al. (USPAP 20030126068) (hereinafter referred to as Hauk).

Re claim 9: Adatia does not explicitly teach the step wherein the electronic exchange comprises a matching engine that matches bids and offers for a market according to a first-in-first-out (FIFO) matching algorithm. Hauk teaches the step wherein the electronic exchange comprises a matching engine that matches bids and offers for a market according to a first-in-first-out (FIFO) matching algorithm (section [0066]: “*An algorithm for trade matching, based on prorated or FIFO trading match scheme could be incorporated*”). It would have been obvious to one of

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ordinary skill in the art at the time of the invention to modify Adatia to include the step wherein the electronic exchange comprises a matching engine that matches bids and offers for a market according to a first-in-first-out (FIFO) matching algorithm as taught by Hauk. One would have been motivated to do this so that orders are matched in order they are received.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adatia in view of Wilton et al. (US 6519574) (hereinafter referred to as Wilton).

Re claim 28: Adatia does not explicitly teach spread trade strategy. Wilton teaches spread trade strategy (col. 3, lines 55-65). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Adatia to include spread trade strategy as taught by Wilton. One would have been motivated to do this because spread trading allows parties to trade one commodity for another commodity, thereby enhancing the functionality of the system.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adatia in view of Marynowski et al (USPN 6912511).

Re claim 29: Adatia does not explicitly teach wherein the second order is intended to hedge risk based on a position in the first tradeable object.

Marynowski teaches this concept and/or feature at col. 25, lines 34-54. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Adatia such that the second order is intended to hedge risk based on a position in the first tradeable object as

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taught by Marynowski. Including this functionality facilitates buying and selling securities and/or other items traded on the exchange to hedge at least some of the risk associated with the securities and/or items (col. 25, lines 36-38), thereby making the system more efficient.

Response to Arguments

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLABODE AKINTOLA whose telephone number is (571)272-3629. The examiner can normally be reached on M-F 8:30AM -5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/O. A./

Examiner, Art Unit 3691

/Hani M. Kazimi/

Primary Examiner, Art Unit 3691